

**CALIFORNIA STATE UNIVERSITY,
SACRAMENTO**

MODOC HALL

Final Report

September 26, 2005

CONSTRUCTION PROJECT EVALUATION
CALIFORNIA STATE UNIVERSITY, SACRAMENTO
MODOC HALL PROJECT

September 26, 2005

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CONTENTS

Executive Summary	3
Summary of Findings	3
Introduction	5
Purpose	5
Scope	5
Methodology	6
Exclusions	6
Project Background	7
Field Work Overview	7
Delivery Methodology	7
Project Timeline	7
Project Costs	8
Design Costs	9
Construction Bid Process	11
Subcontractor Compliance	14
Construction Change Orders	15
Contractor Change Order Quotes.....	16
Change Order Report Analysis	17
Labor and Fringe Burden	17
Project Management Inspection Services	19
Major Equipment / Materials Review	22
Close-Out Process	24
Liquidated Damages	25
Accounting	26

EXECUTIVE SUMMARY

Summary of Findings

Based upon our evaluation, the CSU Sacramento Modoc Hall Project was not always being administered consistent with governing Trustee policies and procedures. Some weaknesses in certain controls and processes were observed, which should be addressed.

Our observations, associated risks and recommendations are outlined below:

	Observation	Risk	Recommendation
1.	The Project lacked a formal mechanism for tracking contractual obligations and corresponding payments against each other.	Without an established mechanism of tracking contractual obligations and invoices, overpayments may occur.	The campus should ensure that the CSUS Foundation implement a mechanism to track agreements and contract changes against corresponding invoices and payments made to its consultants. (Ownership: CSUS)
2.	There was no formal Arrangement between the CSUS Foundation and CSUS OFM.	Lack of contractual arrangements between the Foundation and CSUS OFM may result in insufficient separation between the two entities and may also result in potential violation of public contract law.	In the future, the campus should consult CPDC and General counsel and ensure sufficient contractual arrangements between the Foundation and CSUS OFM. (Ownership: CSUS)
3.	The Standard General Conditions were modified without CPDC or General Counsel approval and the language in General Conditions used was inadequate, as a non-Foundation version was used.	Unapproved modifications of the contract Standard General Conditions may result in undesired contractual risk exposure for CSUS.	In the future, the campus should ensure that the CSUS Foundation use a set of General Conditions approved for Foundation administered non-state projects and solicit input from CPDC and General Counsel before any modification of the Standard General Conditions is made. (Ownership: CSUS)

EXECUTIVE SUMMARY

	Observation	Risk	Recommendation
4.	Certain steps in the bid process were not or could not be verified to be in compliance with Trustee Policy. Specifically, DVBE documentation was missing and prevailing wage rates were not included with the bid package.	Compromises during the bid process and issuance of bid documentation may result in violations of governing laws, including not following DVBE requirements and use of incorrect prevailing wage rates.	<p>a. On future projects, CSUS should include the prevailing wage rate with its bid package, per CPDC recommendation.</p> <p>b. CSUS Office of Facilities Management should retain its own copy of the DVBE requirements. CSUS should establish a reliable mechanism to track original DVBE documentation.</p> <p>(Ownership: CSUS)</p>
5.	Issues necessitating the last change order for time extension were not addressed on a contemporaneous basis as they occurred.	Late resolution of time extensions may undermine CSUS' ability to reach a favorable agreement with the Contractor and is not a better industry practice	<p>a. In the future, time extensions should be resolved and incorporated into formally documented agreements on a regular basis.</p> <p>(Ownership: CSUS)</p> <p>b. CPDC should remind campus of the requirements in SUAM §9792.01 .</p> <p>(Ownership: CPDC)</p>
6.	The Consultant Agreement used contained limited terms and conditions and did not describe the nature of the work to be performed in detail.	Contract language that does not detail the contractual obligations may result in disputes and unfavorable outcome of contract interpretation for CSUS.	<p>On future projects, any consultant contracts should contain a clearly described scope of work.</p> <p>(Ownership: CSUS)</p>
7.	The Consultant Agreements were not formally closed out.	Contracts that remain open expose CSUS and the Foundation to continued contractual risk and obligations unnecessarily.	<p>When work is complete, all contracts should be closed out in a timely manner.</p> <p>(Ownership: CSUS)</p>
8.	The invoices from P.K. Engineering did not show aggregate amounts billed against the contract or the total contract value.	Invoices that do not account for total invoiced amounts or contract obligations in aggregate may result in overbillings.	<p>On future contracts, CSUS should instruct its consultants with do-not-exceed contractual arrangements to submit invoices where total amounts billed against the aggregate contract value are shown, in addition to the current amount due.</p> <p>(Ownership: CSUS)</p>
9.	The Contractor's non-conformance with specifications was not discovered by the Engineer or Inspector.	Without appropriate inspection and controls of Contractor performance, non-conforming equipment or unsuitable materials may be installed, leading to inferior construction, performance and/or quality problems for CSUS.	<p>CSUS should determine level of oversight by the Engineer and/or inspector and evaluate whether any action is warranted for negligence</p> <p>(Ownership: CSUS)</p>

INTRODUCTION

Purpose

KPMG LLP (“KPMG”) was retained by California State University’s (“CSU”) Office of the University Auditor on October 29, 2004 to perform an independent project evaluation of California State University, Sacramento’s (“CSUS”) Modoc Hall Project (“the Project”).

The overall objective of the construction evaluation was to assess construction management practices for the Project and to substantiate that it was managed in accordance with law and Trustee policy.

This report provides conclusions and recommendations addressing potential recovery of project costs and process improvements to the extent they were uncovered as part of our work. Recommendations are listed and numbered sequentially throughout this report.

Scope

While the basic scope of our work matches that required by the RFP and that which KPMG has performed in years past, we also included additional tasks we believe may provide value to CSU. KPMG identified specific areas within the scope listed below that present potential for substantive loss or liability for the CSU Sacramento’s University Modoc Hall Project. The various scope categories are outlined in CSU’s Request for Proposal, dated July 14, 2004 and KPMG’s Proposal, dated July 27, 2004 and contains the following sections:

- Project Background (*included for information, contains no recommendations*)
- Design Cost
- Construction Bid Process
- Construction Change Orders
- Project Management Inspection Services
- Major Equipment/Materials
- Close-Out Documentation
- Liquidated Damages
- Accounting

Methodology

KPMG’s approach to this engagement incorporates a work plan shared with the University Auditor’s office as outlined in our Agreement with CSU. During the course of our work we expanded on tasks related to scope sections with the highest potential risk exposure. The work performed by KPMG was conducted in accordance with our aforementioned Methodology, but is not limited to, the following tasks:

- Examine financial records, reports, written CSU procedures, University contract documents and other material related to the Project and compare current practices and procedures with CSU requirements;
- Conduct a preliminary review to determine project emphasis;
- Interview key individuals involved in the project;
- Identify significant deficiencies, if any;
- Recommend changes that may result in streamlining the design/construction process, helping to assure adequate project controls and reducing costs; and
- Prepare a written report of our findings and recommendations.

Exclusions

The services, fees and delivery schedule for this Engagement are based upon the following assumptions, representations or information supplied by CSU (“Assumptions”).

1. KPMG is not responsible for and will not make management decisions relating to this Project or any other aspect of CSU’s business. CSU shall have responsibility for making all decisions with respect to the management and administration of its real estate and capital projects.
2. CSU management accepts responsibility for the substantive outcomes of this engagement and, therefore, has a responsibility to be in a position in fact and appearance to make an informed judgment on the results of this engagement.
3. Our work under this did not include technical opinions related to engineering, operations and maintenance.
4. KPMG’s work under this engagement did not include a review, audit or evaluation of financial statements, tax services, or other services of KPMG not listed in the above methodology.
5. We have, and will continue to consider the effect of this Engagement on the ongoing, planned and future audits, as required by *Government Auditing Standards* and have determined that this engagement will not impair KPMG’s independence.

PROJECT BACKGROUND

The scope of work for Modoc Hall Project consisted of construction of a 4-story building, approximately 85,400 gross square feet with a concrete foundation slab on grade and steel frame construction. The exterior is pre-cast concrete panels with spandrel glass and arched metal canopies with standing seam metal roof. Parking facilities and site improvements were also part of the work. The building provides administrative space for use by the United States Geological Survey (USGS), the University's Office of Water Programs, the University's Office of Research, Graduate and Extended Programs, and the CSUS Foundation. Modoc Hall was funded by the Foundation mainly through the issuance of revenue bonds.

Field Work Overview

During the week of May 2 – 6, 2005, KPMG conducted its field work and reviewed project records from the following entities involved with the Modoc Hall project:

General Contractor	Brown Construction, Inc. ("Brown")
Architect	E.M. Kado Associates
Construction Management	V2CMA
Inspector of Record (IOR)	P.K. Engineering Services
Project Management	CSUS Foundation ("Foundation") and CSUS Office of Facilities Management ("OFM")

Follow-up discussions to clarify issues and supplement supporting documentation were conducted through the completion of this report.

Delivery Methodology

The project was delivered using a Design-Bid-Build, Lump Sum contract.

Project Timeline

The design process started after a design contract was executed with E.M. Kado Associates in November, 2000. Schematic drawings were completed by July, 2001. Bid drawings for Phase I were completed one year later and the construction work was bid on August 29, 2002. Construction started on October 25, 2002 (Notice to Proceed). Construction was carried out by Brown Construction, Inc. with an initial contract completion date specified as December 26, 2003. The project achieved Certificate of Occupancy on April 26, 2004, however CSUS took beneficial occupancy to start move in equipment first quarter of 2004. Notice of Completion was issued on October 5, 2004. A time extension with Brown was in

the process of being executed retroactively through a change order at the time of KPMG's review. No liquidated damages were assessed.

Project Costs

The entire project was approved by the Board of Trustees for \$19,343,000 including design, building construction, site development, equipment, CPDC administrative fees and contingency. Project expenditures are currently \$15,332,992 and are projected to remain below the budget at the time the final accounting is completed, according to the Foundation. The majority of the savings were realized from the construction costs, which were budgeted at \$15,614,000 (excluding contingency and escalation) and subsequently bid at \$12,520,000.

DESIGN COSTS

Qualifications were solicited from competing firms selected from CPDC's list of pre-qualified Architects. Four firms were invited to present their qualifications in interviews with the CSUS selection committee. E.M. Kado scored the highest in the process and as a result, was selected as the Architect for the Project.

A modified standard CSU Architect/Engineering Agreement was entered into with E.M. Kado on November 20, 2000 in the amount of \$661,468. The contract covered Schematic Design, Preliminary Design, Working Drawings, Bidding and Negotiation, and Construction Administration Support. The Standard Agreement was modified by adding a Foundation Agreement cover page and one additional page of provisions. The Contract was later modified by three amendments to incorporate reimbursable expenses and additional design work reaching a final contract value of \$722,364. These amendments were Foundation produced; CPDC approved forms were not utilized.

The following is a summary of the basic contract and amendments, of which \$702,433 had been paid at the time of KPMG's review:

Description	Date	Amount
Schematic Design	11/20/00	\$ 125,679
Preliminary Design	11/20/00	92,605
Construction Documents	11/20/00	252,614
Bidding & Negotiation	11/20/00	26,591
Construction Admin.	11/20/00	163,979
Subtotal Base Contract		\$ 661,468
Amendment 1 - Reimbursable Expenses	04/16/03	14,635
Amendment 2 - Reimbursable Expenses	11/03/03	25,000
Amendment 3 - Reconfiguration of NE wing of 2nd floor	12/04/03	21,261
Subtotal Amendments		\$ 60,896
Total Contract Value		\$ 722,364

The Contract and Amendments were approved by the CSUS Foundation Director and also included the signature of the CSUS Office of Facilities Management ("OFM") Project Director. The invoices were approved for payment by the OFM Director and followed a format tracking percent complete by contract category, which is commensurate with industry practice.

KPMG observed that no formal mechanism was in place to track invoices against contractual obligations. In addition, we found no formal mechanism in place to track aggregate contractual obligation. Amendments on file with OFM differed from what was on file at the Foundation, which lead to some difficulties in establishing the final contractual amount.

Observation:

The Project lacked a formal mechanism for tracking contractual obligations and corresponding payments.

Risks:

Without an established means to track contractual obligations and invoices, overpayments may occur.

Recommendation:

1. The campus should ensure that the CSUS Foundation implement a mechanism to track agreements, amendments, corresponding invoices and payments for the Architect as well as other consultants. (Ownership: CSUS)

Campus Response:

1. During August 2005, the campus implemented a form to track agreements, changes, invoices, and payments. Corrective action has been completed.

CONSTRUCTION BID PROCESS

The construction bidding process for this project was administered through the CSUS OFM, however all contractual agreements were executed by the Foundation, who also administered all payments and project accounting for the Project.

At the time of this report, KPMG had not been supplied with or reviewed any Agreement between the CSUS Foundation and the CSUS OFM. An Agreement should be in place clearly delineating the responsibilities between the Foundation and CSUS OFM in order to keep the project non-state from an administrative standpoint. If the two entities and associated work forces are not contractually kept separate, the Project may not be considered a Trustee Project and as a result, requirements set forth by public contract law may apply. Per CPDC, the CSUS Foundation did not consult their office on this issue. The arrangement in place between the Foundation and CSUS OFM was verbal and was not sufficient to provide the necessary separation.

Observation:

There was no formal Arrangement between the CSUS Foundation and CSUS OFM.

Risks:

Lack of a contractual arrangement between the Foundation and CSUS OFM may result in insufficient separation between the two entities and may also result in potential violation of public contract law.

Recommendation:

2. In the future, the campus should consult CPDC and General Counsel and ensure sufficient contractual arrangements between the Foundation and CSUS OFM. (Ownership: CSUS)

Campus Response:

2. Facilities Services is currently developing a memorandum of understanding to establish the framework for contractual arrangements, and this documentation will be completed by November 30, 2005. For future projects, Facilities Services will consult with CPDC and General Counsel to ensure that contractual agreements are appropriately documented.

The Project was executed using the standard CSU design-bid-build approach and was bid in August, 2002. A complete set of specifications, general conditions and drawings were made available to all bidders. The bidders were solicited through formal invitation and were selected based on reputation, local presence and previous experience on CSUS projects. Three prospective bidders were invited, however only two contractors submitted a bid. SCUS OFM and CPDC felt that this was acceptable and that the bids received were competitive.

Prior to bid opening, two addendums were issued to change bid opening time, add documents to the bid package, replace bid proposal forms and clarify scope.

The two Contractors submitting bids were Brown Construction (“Brown”) and Harbison Higgins Builders, Inc. (“Harbison”). The lowest responsible and responsive bidder was Brown Construction with a base bid of \$12,497,000 (approximately \$148,000 lower than Harbison).

A standard CSU Agreement with General Conditions was used to execute the construction contract. In addition, Supplementary General Conditions were issued which, in part, modified the Standard General Conditions. There was no evidence that CPDC or General Counsel were involved in the modification of the Standard General Conditions. Further, the General Conditions used were a modification of the version for state-funded projects, which does not provide sufficient separation between the Foundation and CSUS.

Observation:

The Standard General Conditions were modified without CPDC or General Counsel approval. In addition, the General Conditions version used was inadequate.

Risks:

Unapproved modifications or versions of the Standard General Conditions may result in undesired contractual risk exposure for CSUS.

Recommendation:

3. In the future, the campus should ensure that the Foundation uses a set of General Conditions approved for Foundation administered non-state projects and solicit input from CPDC and General Counsel before any modification of the Standard General Conditions is made. (Ownership: CSUS)

Campus Response:

3. The Vice President for Administration will issue a memorandum to reinforce with Facilities Services the need to forward to CPDC and General Counsel all major capital project construction documents for review of contract general and supplemental general conditions prior to bid. This memorandum will also require that Facilities Services ensures the use of the appropriate General Conditions for foundations. These actions will be completed by December 31, 2005.

KPMG reviewed CSUS's bid files and process for evaluating bids received and found the project administrative team in compliance with requirements related to the bid evaluation process with some exceptions. Prevailing wage rates were not included with the bid package, which is a preference by CPDC. In addition, support for consideration of Disadvantage Veterans' Business Enterprise ("DVBE") requirements could not be located by CSUS or Brown. Although a non-state funded project is not subject to the same project administration requirements as a state funded project, specifically as it relates to public contracting practices and prevailing wage rate requirements, these are still better practices that should be followed.

Observation:

Certain steps in the bid process could not be verified. Specifically, DVBE documentation could not be located and prevailing wage rates were not included with the bid package.

Risks:

Compromises during the bid process, including not following DVBE requirements and use of incorrect prevailing wage rates, may result in violations of governing laws.

Recommendations:

- 4a. On future projects, when prevailing wage rates are utilized, CSUS should include the prevailing wage rate with its bid packages, per CPDC recommendation. (Ownership: CSUS)

- 4b. CSUS Office of Facilities Management should retain its own copy of the DVBE requirements. CSUS should establish a reliable mechanism to keep track of original DVBE documentation. (Ownership: CSUS)

Campus Response:

- 4a. The Vice President for Administration will issue a memorandum to reinforce with Facilities Services the need to include the current copy of prevailing wage rate in the bid package. This action will be completed by December 31, 2005.
- 4b. The Vice President for Administration will issue a memorandum to reinforce with Facilities Services the need to include in the supplemental general conditions the requirement for the bidder to submit two copies of the DVBE documentation. Additionally, Facilities Services will archive the DVBE documentation will all construction project files. This action will be completed by December 31, 2005.

Subcontractor Compliance

KPMG compared the Expanded List of Subcontractors to Brown's actual vendor cost information and discussed situations of substitutions with CSUS. KPMG found no evidence of inappropriate subcontractor substitutions.

Recommendation:

None

CONSTRUCTION CHANGE ORDERS

Eight change orders were executed on the Project at the time of KPMG's review totaling \$868,247, resulting in a final contract value of \$13,388,247. One additional change order to grant a schedule extension for Brown was in the process of being executed at the time of KPMG's field work. This change order extended the completion date to October 5, 2004. This change order was issued after Notice of Completion, and after acceptance of construction. The change order did not contain any financial settlement terms.

SUAM §9792.01 describes the responsibilities of the construction administrator during the construction phase and specifically provides guidance on contemporaneous resolution of contract extensions as follows:

After completion of major construction milestones, i.e. foundation, structural steel, etc., if possible, and if it is in the best interest of the Trustees, settle all outstanding issues, reconcile time, and memorialize in a milestone settlement change order. If attempts to settle these issues fail, document the attempt and place that documentation in the project file. Milestone settlements lessen the burden on the construction administrator of settling these issues at the end of the project, and will prevent the snowballing of claims in these areas.

At the time of KPMG's review, \$13,189,226 of the total contract value had been paid. CSUS was holding the remainder of the contract value, as there was an unresolved issue related to the main transformer, which required corrective action by the Electrical Subcontractor. This issue arose after Notice of Completion had been filed.

KPMG also performed testing on a sample of change orders. The change orders tested followed mark-up requirements outlined by the Supplementary General Conditions. However, these mark-up requirements were inconsistent with mark-up requirements set forth by the Standard General Conditions. As previously mentioned in this report, the Foundation modified the percentages in the Standard General Conditions by the Supplementary set of General Conditions. CPDC also reported inconsistencies in its review change order mark-up for this Project. All of the KPMG sampled change order files contained supporting documentation related to quotes from subcontractors and included recommendation for approval by Associate VP for Administration, Facilities Management and final approvals by the Foundation.

Observation:

Issues necessitating the last change order for time extension were not addressed on a contemporaneous basis as they occurred.

Risks:

Late resolution of time extensions may undermine CSUS' ability to reach a favorable agreement with the Contractor and is not a better industry practice.

Timely filing of time extensions may reduce the contractor's claim at the end of the project.

Recommendations:

- 5a. In the future, time extensions should be resolved and incorporated into formally documented agreements on a regular basis. (Ownership: CSUS)

- 5b. CPDC should remind campuses of the requirements in SUAM §9792.01. (Ownership: CPDC)

Campus Response:

- 5a. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will address time extensions on a regular basis, and incorporate these extensions in change orders. This action will be completed by December 31, 2005.

Management Response:

- 5b. We agree. We continue to extol the merits of executing settlement change orders at major milestones of the project at most training sessions for CM process. This was last reviewed in both July 2005 training sessions (Law of Design & Construction session and CM Procedures session). We reviewed SUAM Section 9792.01 and its requirements in detail with the Executive Deans at the October 26, 2005 Executive Deans meeting.

Contractor Change Order Quotes

KPMG reviewed the subcontractor quotes included in the sampled change orders and compared these with the actual amounts agreed to and paid by Brown. It was discovered that Brown had not yet paid three major subcontractor invoices, although change orders for the amounts had been issued by Brown. Brown explained that the subcontractors in question had not yet invoiced for these amounts, which at the time of KPMG's field work was nearly five months after CSUS authorized these charges in a change order from CSUS to Brown. Prior to issuance of this report, KPMG followed up on this issue and learned that

invoices had been received by Brown and that Brown was in the process of processing payment. In the case of the electrical work, this subcontractor had become insolvent and was responsible for the unresolved transformer issue. As such, no invoice had been issued for the final amount and no final payment had been processed for this subcontract.

KPMG found no evidence that any stop notices had been filed by any of the subcontractors as a result of non-payment by Brown.

Change Order Report Analysis

CSUS provided a change order log reflecting the source of each change order. The following table summarizes the data:

Type Of Change	Amount	% of Total CO	% of Orig. Contract
4.1 Error in or omission from the contract documents	\$308,312	35.51%	2.46%
4.2 Unforeseeable job site condition	\$161,722	18.63%	1.29%
4.3 Change in the requirements of a regulatory agency	\$96,795	11.15%	0.77%
4.4 Change originated by the University	\$272,506	31.39%	2.18%
4.5 Changes in specified work	\$19,000	2.19%	0.15%
4.6 Other	\$9,914	1.14%	0.08%
Total Change Orders	\$868,248	100.00%	6.93%
Original Contract Amount	\$12,520,000		
Total	\$13,388,248		

Change orders attributable to Architect’s errors and omissions exceeded 35% of the total net change order costs, but these errors and omissions comprise less than 3% of the total contract amount, which is not significant.

Recommendation:

None

Labor and Fringe Burden

The majority of the change order work was performed by subcontractors or vendors. Only minor clean-up and miscellaneous labor was self-performed by Brown. As such, the risk for cost overruns on labor and fringe burden by the Contractor’s own forces is not significant and detail testing of burden was not performed.

Recommendation:

None

PROJECT MANAGEMENT INSPECTION SERVICES

Independent project management services were provided by V2CMA. V2CMA was retained based on CSUS's previous experience with them. The CSUS Foundation entered into an initial agreement with V2CMA on December 5, 2002 for a do-not-exceed amount of \$127,340 using a Foundation approved agreement. This agreement contained one page of terms and conditions and a limited description of the work to be performed. Five amendments to the agreement were issued to allow for additional construction management services. The final contract amount was \$232,340. Of this amount, \$220,449 had been paid at the time of KPMG's review. Another \$18,460 was paid under a separate contract for services entered into prior to the main construction. At the time of KPMG's review the main contract had not been formally closed out.

The Construction Management agreement and amendments are summarized below:

Effective Date	Description	Amount
<i>Original Contract</i>		
12/5/2002	Construction Management from 10/28/02 - 12/27/03	\$ 127,340
<i>Amendments</i>		
12/22/2003	Construction Management from 12/27/03	25,000
1/17/2003	Construction Management from 03/15/04	25,000
8/22/2003	Construction Management from 06/28/04	20,000
12/15/2003	Construction Management from 09/04	20,000
3/1/2004	Construction Management from 09/04	15,000
Total		\$ 232,340

Inspection services were provided by P.K. Engineering. The firm was retained based on CSUS's previous experience with them. CSUS entered into an initial agreement with P.K. Engineering on October 28, 2002 for a do-not-exceed amount of \$120,000 using a Foundation approved agreement, which contained one page of terms and conditions and a limited description of the work to be performed. The proposal from P.K. Engineering was not incorporated by reference. One amendment to the agreement were issued to allow for additional inspection services over time. The final contract amount was \$140,000. Of this amount, \$129,922 had been paid at the time of KPMG's review. The contract had not been closed out.

In addition, KPMG reviewed invoices for both V2CMA and P.K. Engineering and noted one discrepancy in the invoices from P.K. Engineering, where aggregate billings to date and total contractual value are not shown.

Observation:

The Consultant Agreement used contained limited terms and conditions and did not describe the nature of the work to be performed in sufficient detail.

Risks:

Contract language that does not describe the details of the contractual obligations may result in contractual disputes or liabilities for CSUS.

Recommendation:

6. On future projects, any consultant contracts should contain a clearly described scope of work. If appropriate for the occasion, and after discussion with CPDC, the CSU Standard Consultant Agreement may be used. (Ownership: CSUS)

Campus Response:

6. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will include detailed scope of work on all future project consultant contracts. This action will be completed by December 31, 2005.

Observation:

The Consultant Agreements were not formally closed out, although work had been completed.

Risks:

Contracts that remain open after work is complete expose CSUS and the Foundation to unnecessary contractual obligations.

Recommendation:

7. When all work has been finalized, all contracts should be formally closed out in a timely manner. (Ownership: CSUS)

Campus Response:

7. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will formally close out consultant contracts when the work has been completed. This action will be completed by December 31, 2005.

Observation:

The invoices from P.K. Engineering did not show aggregate amounts billed against the contract or the total contract value.

Risks:

Invoices that do not account for total invoiced amounts or contract obligations in aggregate may result in overbillings.

Recommendation:

8. On future contracts, CSUS should ensure the Foundation instruct its consultants with do-not-exceed contractual arrangements to submit invoices where total amounts billed against the aggregate contract value are shown, in addition to the current amount due. (Ownership: CSUS)

Campus Response:

8. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will inform consultants on the proper format for invoices. This action will be completed by December 31, 2005.

MAJOR EQUIPMENT/MATERIALS REVIEW

Modoc Hall was an active building at the time of KPMG's review and as a result, equipment and materials for review was selected partially based on accessibility in order not to disturb the tenants.

CSUS allowed full and complete access to drawings, specifications and submittals, including revisions, which were organized in a fashion easy to locate and contained all sufficient information. The equipment was verified in the field against performance specifications, submittals, and drawings available.

The following equipment items and specific model data were visually confirmed as installed on the project:

Division	Drawing No.	Brand	Model No./ Capacity	Description
15850	A3.3; A3.4	Energy Labs.	C101176-FCH-L	Air Handling Roof Unites
14210	A4.3	Thyssen Krupp	3,500 lbs, 350 FPM	Elevator
16000	E5.1	Custom	1,500 kVA oil filled OA transformer	Transformer
15640	P3.0	Baltimore Aircoil	Model 3412A-MM	Cooling Tower
16231	E5.1	Cummins	GIA855G2	Generator (motor)
15559	P3.0	Parker Industries	T2970LR	Boiler
08920	A2.6; A3.1	Kawneer	3225	Window Wall

The equipment and materials selected conformed to the specifications above, based on a visual inspection of equipment labeling, with the exception of the main transformer. It was discovered by CSUS that this transformer had been ordered and installed in a fashion that was not conforming to the contractual specifications and as a result, a corrective action was necessary by Brown's electrical subcontractor. CSUS attributed the error to Brown and its subcontractor but also to the electrical engineer who approved the submittal for the incorrect transformer unit. At the time of KPMG's field work this item was unresolved, but CSUS and Brown construction was working toward a resolution. CSUS is withholding funds from Brown specifically for this purpose.

Observation:

The Contractor's non-conformance with specifications was not discovered by the Engineer or inspector.

Risk:

Without appropriate inspection and controls of Contractor performance, non-conforming equipment or unsuitable materials may be installed, leading to inferior construction, performance and/or quality problems for CSUS.

Recommendation:

9. CSUS should determine level of oversight by the Engineer and/or inspector and evaluate whether any action is warranted for negligence. (Ownership: CSUS)

Campus Response:

9. By December 31, 2005, Facilities Services will provide an analysis and resolution regarding the replacement of the installed transformer that did not conform to contractual specifications.

CLOSE-OUT PROCESS

KPMG verified that project close-out requirements established by the Contract General Conditions and SUAM were adhered to with the exception of executing a final change order for time extension after Notice of Completion was filed, as discussed in the Change Order section of this report. CSUS utilized the CPDC close-out checklist and provided KPMG with access to Punch List, Operating Permits, Operation and Maintenance (O & M) Manuals, Warranties, Inspection Reports, and other relevant project close-out documentation, which was filed and retained at CSUS. The As-builts were obtained by CSUS from Brown in April of 2005, which is when all requirements were complete.

Final payment to Brown had not yet been processed at the time of KPMG's review, as there were discussions surrounding the main transformer under way between CSUS and Brown, which were initiated after Notice of Completion had been filed.

Recommendation:

None

LIQUIDATED DAMAGES

The original contract specified completion on December 26, 2003. The Foundation took beneficial occupancy of the building late January/early February of 2004. This was acceptable to the Foundation and allowed for equipment and furniture to be moved in. The Occupancy Permit was obtained from the Fire Marshal on April 26, 2004 whereby people were able to move into the building. Due to several rain days and other documented delays, CSUS agreed to grant Brown additional schedule days and extend the acceptable date of completion to October 4, 2004, which is when Notice of Completion was filed. As noted earlier in this report, the extensions were not addressed on a contemporaneous basis.

CSUS and the Foundation explained that no damages were suffered on the project and the schedule extension was reasonable. As a result, liquidated damages were not imposed. At the time of KPMG's review, the change order to allow for the additional days was in process of being executed.

Recommendation:

See recommendations 5 and 9.

ACCOUNTING

The project accounting was managed by the Foundation. No cost reports, expenditure tracking mechanism, or accounting responsibilities for the project were maintained by CSUS OFM. KPMG reviewed the accounting process for the project with representatives from the CSUS Foundation, including invoice processing and accounts payable. The Foundation was able to generate the requested accounting reports, tracking expenditures by vendor and cost type and establishing a total project cost. As previously discussed in this report, KPMG encountered some difficulties in reconciling the expenditures to its corresponding contractual obligations, mainly due to CSUS's limited reconciliation records, but eventually this task was completed.

Nothing came to KPMG's attention that would indicate a discrepancy in the accounting and project reporting process.

Recommendation:

See recommendation 1.



CALIFORNIA STATE UNIVERSITY, SACRAMENTO

OFFICE OF THE VICE PRESIDENT FOR ADMINISTRATION

October 31, 2005

Larry Mandel
University Auditor
The California State University
401 Golden Shore
Long Beach, CA 90802-4210

RECEIVED
UNIVERSITY AUDITOR

NOV - 3 2005

THE CALIFORNIA STATE
UNIVERSITY

Subject: Campus Response to Recommendations of Modoc Hall Project

Dear Mr. Mandel:

We submit the attached document as our response to the recommendations of the audit. The campus is committed to addressing and resolving the issues identified in the audit report.

If you have any questions or require additional information, please contact Kathi McCoy, Director of Auditing Services, at 916 278-7439.

Sincerely,

Stephen C. Garcia
Vice President for Administration

Attachment

cc: M. Altier
A. Gonzalez
K. McCoy
D. Parenti
B. Reilly
R. Richardson

CONSTRUCTION PROJECT EVALUATION
CALIFORNIA STATE UNIVERSITY, SACRAMENTO
MODOC HALL PROJECT

DESIGN COSTS

Recommendation:

1. The campus should ensure that the CSUS Foundation implement a mechanism to track agreements, amendments, corresponding invoices and payments for the Architect as well as other consultants. (Ownership: CSUS)

Campus Response:

1. During August 2005, the campus implemented a form to track agreements, changes, invoices, and payments. Corrective action has been completed.

CONSTRUCTION BID PROCESS

Recommendations:

2. In the future, the campus should consult CPDC and General Counsel and ensure sufficient contractual arrangements between the Foundation and CSUS OFM. (Ownership: CSUS)
3. In the future, the campus should ensure that the Foundation uses a set of General Conditions approved for Foundation administered non-state projects and solicit input from CPDC and General Counsel before any modification of the Standard General Conditions is made. (Ownership: CSUS)
- 4a. On future projects, when prevailing wage rates are utilized, CSUS should include the prevailing wage rate with its bid packages, per CPDC recommendation. (Ownership: CSUS)
- 4b. CSUS Office of Facilities Management should retain its own copy of the DVBE requirements. CSUS should establish a reliable mechanism to keep track of original DVBE documentation. (Ownership: CSUS)

Campus Response:

2. Facilities Services is currently developing a memorandum of understanding to establish the framework for contractual arrangements, and this documentation will be completed by November 30, 2005. For future projects, Facilities Services will consult with CPDC and General Counsel to ensure that contractual agreements are appropriately documented.
3. The Vice President for Administration will issue a memorandum to reinforce with Facilities Services the need to forward to CPDC and General Counsel all major capital project construction documents for review of contract general and supplemental general conditions prior to bid. This memorandum will also require that Facilities Services ensures the use of the appropriate General Conditions for foundations. These actions will be completed by December 31, 2005.
- 4a. The Vice President for Administration will issue a memorandum to reinforce with Facilities Services the need to include the current copy of prevailing wage rate in the bid package. This action will be completed by December 31, 2005.
- 4b. The Vice President for Administration will issue a memorandum to reinforce with Facilities Services the need to include in the supplemental general conditions the requirement for the bidder to submit two copies of the DVBE documentation. Additionally, Facilities Services will archive the DVBE documentation will all construction project files. This action will be completed by December 31, 2005.

CONSTRUCTION CHANGE ORDERS

Recommendation:

- 5a. In the future, time extensions should be resolved and incorporated into formally documented agreements on a regular basis. (Ownership: CSUS)

Campus Response:

- 5a. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will address time extensions on a regular basis, and incorporate these extensions in change orders. This action will be completed by December 31, 2005.

PROJECT MANAGEMENT INSPECTION SERVICES

Recommendations:

6. On future projects, any consultant contracts should contain a clearly described scope of work. If appropriate for the occasion, and after discussion with CPDC, the CSU Standard Consultant Agreement may be used. (Ownership: CSUS)
7. When all work has been finalized, all contracts should be formally closed out in a timely manner. (Ownership: CSUS)
8. On future contracts, CSUS should ensure the Foundation instruct its consultants with do-not-exceed contractual arrangements to submit invoices where total amounts billed against the aggregate contract value are shown, in addition to the current amount due. (Ownership: CSUS)

Campus Response:

6. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will include detailed scope of work on all future project consultant contracts. This action will be completed by December 31, 2005.
7. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will formally close out consultant contracts when the work has been completed. This action will be completed by December 31, 2005.
8. The Vice President for Administration will issue a memorandum to reinforce that Facilities Services will inform consultants on the proper format for invoices. This action will be completed by December 31, 2005.

MAJOR EQUIPMENT/MATERIALS REVIEW

Recommendation:

9. CSUS should determine level of oversight by the Engineer and/or inspector and evaluate whether any action is warranted for negligence. (Ownership: CSUS)

Campus Response:

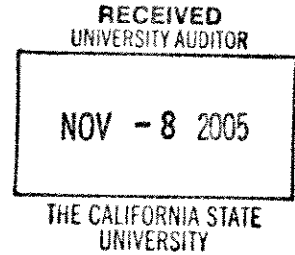
9. By December 31, 2005, Facilities Services will provide an analysis and resolution regarding the replacement of the installed transformer that did not conform to contractual specifications.

Memorandum

To: Mr. Larry Mandel
University Auditor
Office of University Auditor

Date: October 28, 2005

From: Richard P. West
Executive Vice Chancellor and Chief Financial Officer
Business and Finance Division



Subject: **Audit Report**
Modoc Hall
California State University, Sacramento

I am pleased that the overall theme of this audit report continues in a positive vein and that it finds general compliance with established procedures. I have reviewed the report's findings with my Capital Planning, Design and Construction (CPDC) staff, and have attached our response to the auditors' findings and recommendation to CPDC.

RPW:JRC:bn

Attachments

cc: Ms. Elvyra F. San Juan
Mr. Larry Piper
Mr. Thomas M. Kennedy
Mr. James R. Corsar

CONSTRUCTION PROJECT EVALUATION
CALIFORNIA STATE UNIVERSITY, SACRAMENTO
MODOC HALL PROJECT

CONSTRUCTION CHANGE ORDERS

Recommendation:

- 5b. CPDC should remind the campus of the requirements in SUAM §9792.01.
(Ownership: CPDC)

Management Response:

- 5b. We agree. We continue to extol the merits of executing settlement change orders at major milestones of the project at most training sessions for CM process. This was last reviewed in both July 2005 training sessions (Law of Design & Construction session and CM Procedures session). We reviewed SUAM Section 9792.01 and its requirements in detail with the Executive Deans at the October 26, 2005 Executive Deans meeting.

THE CALIFORNIA STATE UNIVERSITY
OFFICE OF THE CHANCELLOR



BAKERSFIELD

December 8, 2005

CHANNEL ISLANDS

CHICO

MEMORANDUM

DOMINGUEZ HILLS

EAST BAY

TO: Mr. Larry Mandel
University Auditor

FRESNO

FROM: Charles B. Reed
Chancellor

A handwritten signature in black ink that reads "Charles B. Reed". The signature is written in a cursive style and is positioned to the right of the typed name and title.

FULLERTON

HUMBOLDT

SUBJECT: KPMG Draft Final Report on the *Modoc Hall* Construction Project at
California State University, Sacramento

LONG BEACH

LOS ANGELES

In response to your memorandum of December 8, 2005, I accept the response as
submitted with the draft final report on the *Modoc Hall* construction project at
California State University, Sacramento.

MARITIME ACADEMY

MONTEREY BAY

CBR/amd

NORTHRIDGE

Enclosure

POMONA

cc: Ms. Erika Alvord, KPMG

SACRAMENTO

Dr. Alexander Gonzalez, President

SAN BERNARDINO

Mr. Dennis Hordyk, Assistant Vice Chancellor, Financial Services

SAN DIEGO

Ms. Kathi McCoy, Director, Auditing Services

SAN FRANCISCO

Ms. Elvyra San Juan, Assistant Vice Chancellor, CPDC

SAN JOSÉ

Mr. Richard P. West, Executive Vice Chancellor and Chief Financial Officer

SAN LUIS OBISPO

SAN MARCOS

SONOMA

STANISLAUS